

*S. Faulkner*  
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**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

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FILE: B-193391

DATE: December 27, 1978

MATTER OF: George Ziecina - Retroactive Promotion

*[Disallowance of Claim for Retroactive Promotion]*

DIGEST: Where, because of the press of other work, an employee's supervisor, fails to submit the employee's promotion recommendation for a career-ladder promotion, in time to permit the employee's promotion on the earliest eligibility date, the promotion may not be made retroactive to that date, absent a non-discretionary agency policy, regulation, or collective-bargaining agreement provision requiring that career-ladder promotions be so effective.

This decision is in response to a request for reconsideration, submitted on behalf of Mr. George Ziecina, of our Claims Division Settlement Certificate Z-2787990, August 22, 1978, which denied Mr. Ziecina's claim for retroactive readjustment of his promotion date.

Mr. Ziecina was employed as a grade GS-5 Claims Representative Trainee, a career-ladder position, in the Ambridge, Pennsylvania District Office of the Social Security Administration. He was eligible in all respects for promotion to grade GS-7 of his career ladder, on September 11, 1977. His supervisor, the District Manager failed to submit the Request for Personnel Action (SF 52) until September 23, 1977. Thus, Mr. Ziecina's promotion to grade GS-7 was not effective until September 25, 1977, 2 weeks after his minimum eligibility date. The only explanation offered by the District Manager for his failure to submit the promotion recommendation earlier was that he was involved in so many other activities that he was unable to properly oversee the functions of the office.

Mr. Ziecina submitted a claim for a retroactive adjustment of his promotion date to the earliest possible eligibility date, September 11, 1977. He states that he had met all eligibility requirements, that he had been assured that his promotion would be processed on time, and that the error here is an administrative error within the meaning of the applicable Comptroller General's decisions authorizing retroactive promotion.

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It is true that we have authorized retroactive promotion when administrative errors have occurred. However, administrative errors of this type are those that occur after the individual having authority to approve the promotion has indicated approval. B-168683, January 22, 1970. This is not the case here, the Request for Personnel Action was not submitted. The approving authority was not given the opportunity to approve Mr. Ziecina's promotion until September 23, 1977, almost 2 weeks after he became eligible for promotion.

Absent a nondiscretionary agency policy, regulation, or collective-bargaining agreement provision to the contrary, an employee has no right to automatically receive a career-ladder promotion on a date certain. Matter of Adrienne Ahearn, B-186649, January 3, 1977; B-183969, B-183985, July 2, 1975; and B-180046, April 11, 1974. Where a regulation, policy, or collective-bargaining agreement does impose a nondiscretionary promotion date for career-ladder advancements, we have permitted retroactive promotions. 55 Comp. Gen. 42 (1975) and Matter of Joseph Pompeo, B-186916, April 25, 1977.

We find nothing in the record in the instant case to indicate that the Social Security Administration had any regulation, policy, or collective-bargaining agreement that was applicable to Mr. Ziecina and required that he be promoted within his career ladder on a date certain. The cases which are most analogous to Mr. Ziecina's situation are B-183969, B-183985, supra, in which the Department of Health, Education and Welfare failed to timely process about 300 career-ladder promotions, and B-186649, supra, in which the Internal Revenue Service failed to timely process 21 career-ladder promotions. In both cases, we denied retroactive adjustment of the promotion dates. Under the circumstances of this case those decisions are controlling here.

Accordingly, our Claims Division's disallowance of Mr. Ziecina's claim is affirmed.

  
Acting Comptroller General  
of the United States